

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CONSERVATION LAW FOUNDATION, INC.,)

Plaintiff,)

v.)

MITT ROMNEY, in his official capacity as)
GOVERNOR OF MASSACHUSETTS, et al.,)

Defendants.)

Civil Action No. 05-10487 NG

MOTION TO DISMISS OF THE MASSACHUSETTS TURNPIKE AUTHORITY AND
MATTHEW J. AMORELLO

Defendants the Massachusetts Turnpike Authority and Matthew J. Amorello, in his official capacity as Chairman of the Massachusetts Turnpike Authority (together "MTA"), hereby move to dismiss Counts 1 and 5 through 12 of the Complaint in their entirety for failure to state valid claims for relief under the Clean Air Act's citizen suit provision, 42 U.S.C. § 7604. On the same basis, MTA also moves to dismiss Counts 2 and 4 of the Complaint insofar as those Counts are based on alleged violations of the Vent Stack Permit.

As grounds for its motion to dismiss, MTA joins in and incorporates by reference the arguments set forth by the State Defendants in the State Defendants' Memorandum in Support of Partial Motion to Dismiss, Docket No. 24, and also in the arguments set forth by the MBTA Defendants in the Memorandum in Support of the MBTA Defendants' Motion to Dismiss, Docket No. 26, with the exception of the MBTA Defendants' arguments relating to the dismissal of Counts 17 through 19 of the Complaint. As to Counts 17 through 19, although MTA believes

that the MBTA's arguments for dismissal are legally correct, those counts do not relate to any obligation or undertaking of MTA.

Respectfully submitted,

THE MASSACHUSETTS TURNPIKE
AUTHORITY AND MATTHEW J. AMORELLO,

By their attorneys,

/s/ Gary M. Ronan
Timothy J. Dacey (BBO #111800)
Gary M. Ronan (BBO #653899)
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Dated: May 3, 2005

Local Rule 7.1(A)(2) Certification

I, Timothy J. Dacey, hereby certify that on May 2, 2005, I conferred with Peter Shelley, Esq., attorney for the plaintiff Conservation Law Foundation, in a good faith attempt to resolve or narrow the issues raised by this motion.

/s/ Timothy J. Dacey
Timothy J. Dacey